

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. _____

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
v.) CERTIFICATION OF A
) SEXUALLY DANGEROUS PERSON
DAVID D. LUCE,)
Register Number 24896-001,)
)
Respondent.)

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby submits the attached Certification of a Sexually Dangerous Person pursuant to Title 18 U.S.C. § 4248(a).

Respectfully submitted, this 9th day of February, 2011.

George E. B. Holding
United States Attorney

BY: /s/ Michael G. James
MICHAEL G. JAMES
Assistant United States Attorney
Civil Division
310 New Bern Avenue
Suite 800 Federal Building
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Facsimile: (919) 856-4821
Email: mike.james@usdoj.gov
NY Bar No. 2481414
Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that I have this 9th day of February, 2011, served a copy of the foregoing upon the Respondent in this action by placing the documents in an envelope marked as stated below, and placing the envelope in the U.S. mail for delivery to:

David D. Luce
Reg. No. 24896-001
FCI Butner
P.O. Box 1000
Butner, NC 27509

and on the same day served a copy of the foregoing by placing a copy in the U.S. Mail, addressed as follows:

Office of the Federal Public Defender
150 Fayetteville Street Mall
Suite 450
Raleigh, North Carolina 27601

/s/Michael G. James
MICHAEL G. JAMES
Assistant United States Attorney
Civil Division
310 New Bern Avenue
Suite 800 Federal Building
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Facsimile: (919) 856-4821
Email: mike.james@usdoj.gov
N.Y. Bar No. 2481414
Attorney for the Petitioner

CERTIFICATION OF A SEXUALLY DANGEROUS PERSON

(1) I, Trent H. Evans, am Acting Chairperson of the Federal Bureau of Prisons (Bureau) Certification Review Panel, Washington, D.C. Pursuant to 28 C.F.R. § 0.97, the Director of the Bureau has delegated to me the authority to certify persons in Bureau custody as sexually dangerous, as authorized by 18 U.S.C. § 4248.

(2) Bureau records reflect the following: Inmate David D. Luce, Register Number 24896-001, is in Bureau custody at the Federal Correctional Institution, Butner, North Carolina, in service of a nine-month term of imprisonment, following the revocation of his supervised release (N.D. Ala.)

(Case No. CR 09-J-294-S). His original sentence was a 60-month term of imprisonment and a three-year term of supervised release, following his conviction for Sexual Exploitation of Minors, in violation of 18 U.S.C. § 2252(a)(1); and a concurrent 60-month term of imprisonment and three-year term of supervised release, following his conviction for Sending Obscene Visual Representations of the Sexual Abuse of Children, in violation of 18 U.S.C. § 1466(A)(a)(1) (D. Guam) (Case No. CR-04-00046). His offense conduct included communicating over the Internet with an undercover officer he believed to be a 13-year-old girl, transmitting numerous images and videos of child pornography as well as nude and semi-nude images of himself to the "girl," and,

during a telephone call, telling the "girl" he wanted her to masturbate and describing how he was sexually gratifying himself. His projected release date is February 10, 2011.

(3) Based on a review of his Bureau records, I certify he is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5), and sexually dangerous to others as defined by 18 U.S.C. § 4247(a)(6). My certification is based on information found in Bureau records which includes, but is not limited to, the following:

(a) He previously engaged or attempted to engage in sexually violent conduct or child molestation as evidenced by his conduct associated with his conviction for Sexual Exploitation of Minors;

(b) A psychological review and assessment indicated an Axis I diagnosis of Pedophilia, Sexually Attracted to Both, Exclusive Type; and an Axis II diagnosis of Borderline Personality Disorder;

(c) A review and assessment of him using an actuarial risk assessment instrument (Static-99R) was conducted. This result, in addition to his prior offense conduct, his stated intention to sexually re-offend, his deviant sexual interests, a history of revocation or failure to meet the stipulations of conditional release, and lack of capacity for relationship stability, indicate he will have serious

difficulty refraining from sexually violent conduct or child molestation if released.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.



Trent H. Evans
Acting Chairperson
Certification Review Panel
Federal Bureau of Prisons

2 - 8 - 2011

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. _____

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
v.) ORDER
)
DAVID D. LUCE,)
Register Number 24896-001,)
)
Respondent.)

At the request of the Director of the Bureau of Prisons, the government has filed a Certification of a Sexually Dangerous Person pursuant to 18 U.S.C. § 4248, in order for this Court to hold a hearing to determine whether the Respondent is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5).

Respondent, having demonstrated eligibility for appointment of counsel at government expense, the Federal Public Defender IS DIRECTED to provide representation in this action.

The Court further determines that the Respondent is unable to pay the fees of any witness, and pursuant to Federal Rule of Criminal Procedure 17(b) the Clerk shall issue a subpoena for any witness necessary to present an adequate defense to the pending charge or charges.

The Court further ORDERS that the United States Marshal shall serve any subpoenas presented to him in this case by the office of the Federal Public Defender, and shall pay the appropriate fees and expenses to witnesses so subpoenaed.

Pursuant to 18 U.S.C. section 4247(b), the Court ORDERS the appointment of a mental health examiner of the Respondent's choosing. Pursuant to this section, if the Respondent wishes to request an additional examiner, he shall request such by separate motion to this court.

Any and all future forensic reports, and other such psychological and psychiatric reports or documents relevant to this case, whether such reports are produced by the Federal Bureau of Prisons, independent examiners appointed by order of this Court, or other mental health professionals, shall be filed with this Court under seal, without need of further motion to seal, by either party. Further the Clerk is DIRECTED to permanently seal these reports in accordance with Local Civil Rule 79.2(b), E.D.N.C.

The Court hereby notifies the parties that in light of the provisions of the August 04, 2010 Standing Order, the parties will not be required to conduct an initial scheduling conference pursuant to Fed. R. Civ. P. 26(f).

This ____ day of February, 2011.

United States District Judge